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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition No.3389 of 1990

Petitioner

Smt. Kiranwala Soni wife of Shri Rambharosh Soni, aged about 33 years, Upper Division Teacher, Girls Higher Secondary School, Municipal Corporation, Bilaspur

versus

Respondents

1. Administrator, Municipal Corporation, Bilaspur
2. Commissioner, Municipal Corporation, Bilaspur
3. Municipal Corporation, Mudwana Katni Through: Commissioner Municipal Corporation Katni (M.P.)
4. Union of India, Through Secretary, Ministry Social Justice, Pension and Welfare, Khan Market, New Delhi
5. State of Chhattisgarh, Through: Secretary, Urban Welfare Department, D.K.S. Bhawan, Raipur
6. State of Madhya Pradesh, Through: Secretary, Urban Welfare Department, Vallabh Bhawan, Bhopal

Petition under Art. 226 & 227 of the Constitution of India for a writ in the nature of certiorari, mandamus, etc.

Present : Shri Anup Majumdar, counsel for the petitioner.
Shri A.S.Kachhawaha, counsel for respondents No.1 and 2.

ORAL ORDER

(Passed on 10th April, 2007)

The petitioner was working as an Upper Division Teacher in K.C.S. Higher Secondary School managed by the Municipal Corporation, Katni. On a request made by her, it appears that the State of Madhya Pradesh had passed an order deputing her to work as an Upper Division Teacher in the school run by the Municipal Corporation, Bilaspur. Pursuant to that order, the petitioner had reported for duty in the Municipal Corporation, Bilaspur and her duty report was also accepted by the Corporation.

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(2) By yet another order dated 28-11-1990, the Commissioner of Municipal Corporation, Bilaspur, has directed the petitioner to go back to Katni, i.e., her parent department. Aggrieved by the said order, the petitioner is before this Court.

(3) This Court, while entertaining the petition, by its order dated 03-10-1991, has stayed the order passed by the Commissioner, Municipal Corporation, Bilaspur. By virtue of the interim order passed by this Court, the petitioner continued to work as Upper Division Teacher in the school run by the Municipal Corporation, Bilaspur.

(4) Learned counsel appearing for the respondents - Municipal Corporation, Bilaspur, very fairly submits that when the Commissioner of the Municipal Corporation, Bilaspur passed the impugned order, he did not have authority of law to pass such an order.

(5) The primary contention of the petitioner before this Court is that the Commissioner of the Municipal Corporation, Bilaspur could not have passed the impugned order and, therefore, the same is without authority of law and without jurisdiction. That assertion of the petitioner is not disputed by learned counsel appearing for the respondents - Municipal Corporation, Bilaspur.

(6) In view of that, the relief sought for by the petitioner in this writ petition requires to be granted. Accordingly the following :

ORDER

- (i) The writ petition is allowed.
- (ii) The order passed by the Commissioner, Municipal Corporation, Bilaspur dated 28.11.1990 is quashed.
- (iii) Ordered accordingly.

Sd/-
Chief Justice